



the Original Petition and accompanying citation on November 4, 2021. True and correct copies of the affidavits of service filed with the 170th Judicial District Court reflecting the same are attached hereto as Exhibit “B”.

3. Plaintiff seeks to recover damages in this lawsuit based on allegations of breach of contract and fraud.

**B. Jurisdiction and Removal**

4. In a removal situation, the burden is on the removing party to establish the existence of jurisdiction and the propriety of removal. *Manguno v. Prudential Property and Cas. Ins. Co.*, 276 F.3d 720, 723 (5th Cir. 2002). This Court has jurisdiction in this case pursuant to 28 U.S.C. § 1332, in that there is complete diversity of citizenship between the parties and the amount in controversy exceeds \$75,000.00. Accordingly, statutory authority for the removal of this matter is conferred by 28 U.S.C. §§ 1441 and 1446.

5. Complete diversity under 28 U.S.C. § 1332 exists in this case. Plaintiff is a Texas resident. Defendant Ross is a non-Texas resident, and defendant Custom is a corporation organized under the laws of the State of Delaware with its principal place of business located in Missouri.

6. In addition, the amount in controversy meets the minimum jurisdictional requirements under 28 U.S.C. § 1332. Here Plaintiff, in accordance with the pleading requirements of Texas state courts, has expressly pleaded that he seeks monetary relief “over \$1,000,000.00.” See Exhibit A ¶ 7. The sum claimed by a plaintiff controls the court’s “amount in controversy” analysis. *Kennard v. Indianapolis Life Ins. Co.*, 420 F. Supp. 2d 601, 607 (N.D. Tex. 2006) (citing *St. Paul Mercury Indemnity Co. v. Red Cab Co.*, 303 U.S. 283, 288, 58 S. Ct. 586, 82 L.Ed. 845 (1938)); see also *St. Paul Reinsurance Company, Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998); *Allen v. R & H Oil & Gas Company*, 63 F.3d 1326, 1335 (5th Cir.

1995). In general, the court will look to the plaintiff's complaint regarding the pleaded amount in controversy.

7. Venue is proper in this district and division under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district and division.

8. Contemporaneous with the filing of this Notice of Removal, Defendants are filing a Notice of Filing of a Notice of Removal with the Clerk of the Court for the 170th District Court of McLennan County, Texas pursuant to 28 U.S.C. § 1446(d).

9. Attached hereto are all documents required by 28 U.S.C. § 1446(a).

10. All fees required by law in connection with this Notice have been tendered and paid by Defendants.

WHEREFORE, Defendants hereby remove the above-captioned matter, now pending in the 170th District Court of McLennan County, Texas, to the United States District Court for the Western District of Texas, Waco Division.

Dated: November 29, 2021

Respectfully submitted,

/s/ Jeremy D. Camp

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Inc. and Fred Ross*

**CERTIFICATE OF SERVICE**

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upon the following counsel of record for Plaintiff:

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/s/ Jeremy D. Camp

Jeremy D. Camp